

# TOWNSHIP OF MARLBORO

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**Mayor**

Jonathan L. Hornik

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November 26, 2008

Re: Marlboro Township/COAH

Dear Assemblyperson:

I am writing to you in regards to Marlboro's COAH obligations, and the impact of the recently enacted law A-500. My immediate concern, and the purpose of this letter, regards the manner in which Marlboro will satisfy a portion of its COAH obligations, which are currently estimated to be approximately 1,500 units. Before this year and the passage of A-500, Marlboro had intended to satisfy its obligations, in part, through the use of an important and significant Regional Contribution Agreement (RCA) between Marlboro and the City of Trenton. This RCA proposed to transfer 332 units at a rate of \$35,000 per unit. However, due to the change in law Marlboro (and the City of Trenton for that matter) is unable to rely upon the RCA without some assistance from the Legislature. That is what I am asking for today; your cooperation, understanding, and interest in passing legislation which will preserve the Marlboro-Trenton RCA so that both municipalities may again rely upon the RCA.

I want to be clear that I am not advocating a change in the law such that RCAs can generally be utilized as a means of satisfying a municipality's COAH obligations. Instead, I am specifically seeking to save an existing RCA which had been authorized by both Marlboro and Trenton, executed by the appropriate authorities, relied on for many years by both Marlboro and Trenton and acted upon.

At the onset, I want you to know that for the first time in Marlboro's recent history, my administration and Marlboro's current Town Council plan on submitting an affordable housing plan which will provide a realistic opportunity for affordable housing to be built in Marlboro Township. I understand and appreciate the need to make sure affordable housing in fact gets built in the State of New Jersey. The subject RCA represents only a portion of Marlboro's overall obligation.

Here are the reasons why I am urging you to support legislation to save our RCA.

First, this RCA is not new to either municipality. It was the product of negotiation and it originates back to July 1, 2004, when the RCA was first entered into by both municipalities. In

fact, after its execution, days later, on July 22, 2004, Marlboro petitioned for substantive certification and the 332 unit RCA was included in that petition. Approximately one year later, in December of 2005, when Marlboro re-petitioned to COAH it again included this RCA in its petition. On both occasions this RCA was an integral component as to Marlboro's plan to satisfy its COAH obligations. One can argue in fact that the delay in the timely finalization of this RCA by COAH resulted directly from the lack of legislative direction on affordable housing issues. The RCA Agreement with Trenton was amended this year by my Administration pursuant to comments received by COAH.

Historically, Marlboro and Trenton had previously entered into two other RCAs (i.e. 1997). Therefore, there had been a course of dealing between Marlboro and Trenton as to RCAs. The passage of time had led Marlboro to rely upon the continued viability of the RCA and thus, our 332 unit RCA was not a last minute effort to skirt A-500.

Second, it is a well known fact that Marlboro has been subject to extensive corruption in the township which has led to the conviction of various municipal officials. The unfortunate fallout of this corruption, which endured for decades, was that efficient and prudent planning fell to personal interests. The end result was that the interests of developers were put above the interests of the township. Thus, instead of the township planning to resolve its constitutional obligation to provide affordable housing, the interests of developers were addressed and consequently, the township has been severely and irreparably harmed. Since 1990 our population has nearly doubled, increasing from approximately 27,000 residents to a current estimated population in excess of 46,000 residents. Developments were approved with little or no consideration being given to the long term affects on the township of this activity. Most importantly, significant opportunities to address affordable housing concerns have been lost. Indeed, today Marlboro is paying the price as under previous Mayor's and administrations development has more or less continued unchecked without regard for the orderly planning of affordable housing. The affects of this corruption cannot be overlooked. My Administration has opened the planning process to the public. We are actively engaged in "smart growth" planning through the "visioning" process where for the first time in decades Marlboro residents are participating in Marlboro's plans for growth. We intend to have the State endorse our "smart growth" plan sometime next year. Please be rest assured, there will be affordable housing built in Marlboro in accordance with law.

Third, in an effort to eradicate the devastating effects of corruption, the township successfully negotiated with the City of Trenton for the 332 unit RCA. Without speaking for Trenton I can tell you that both municipalities have clearly relied on the viability of the RCA for different reasons. In Trenton's case, Marlboro is able to offer much needed funding for various redevelopment projects which have been earmarked for the funding generated by the RCA. In Marlboro's case, my township and its constituents have relied on the RCA as an extremely important tool in satisfying our constitutional mandate. Again, the township has been relying on this RCA since July of 2004 and that reliance continues today.

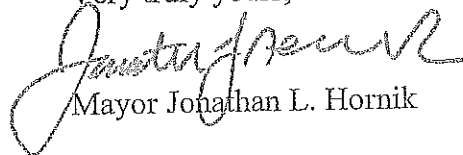
Fourth, it is important that you understand that for decades Marlboro has grown its housing trust fund through developer contributions such that Marlboro clearly has the funds on hand to comply with the proposed RCA. Thus, I am not asking you to support a hypothetical project. Make no mistake about it; Marlboro has the funding available to fully support the proposed RCA and in our discussions with Trenton they have identified specific projects to which the funds would be utilized to develop and foster affordable housing. In fact, Marlboro

has already made a partial payment on the subject RCA pursuant to the fully signed agreement prior of the enactment of A-500.

Finally, the fulfillment of this RCA will satisfy various components of Marlboro's 1985 judgment of compliance which was entered into by the Honorable Judge Eugene Serpentelli as well as subsequent lawful settlements which the township has entered into with developers. These developers have obligated themselves, as part and parcel of these settlements, to fund a variety of RCA units. The cumulative effect led, in part, to the creation of the 332 unit RCA. Thus, if this RCA is no longer valid this will frustrate various settlement and agreements dating back to the 1985 consent order.

For all the foregoing reasons, I am requesting that you support and urge your fellow legislators to pass legislation which will save the Marlboro-Trenton RCA from being declared invalid following the passage of A-500. I appreciate your consideration and remain available to speak with you on this topic should you desire.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jonathan L. Hornik", written in a cursive style. The signature is positioned above the printed name of the Mayor.

Mayor Jonathan L. Hornik